UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

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UNITED STATES OF AMERICA

v. Docket No. 5:09-CR-216-FL

DYLAN BOYD
and New Bern, North Carolina
ZAKARIYA BOYD December 20, 2011

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TRANSCRIPT OF SENTENCING PROCEEDINGS BEFORE THE HONORABLE LOUISE W. FLANAGAN, DISTRICT JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA

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P R O C E E D I N G S

(The following proceedings were held at the United States Courthouse, 413 Middle Street, New Bern, North Carolina, before the Honorable Louise W. Flanagan, United States District Judge for the Eastern District of North Carolina, on December 20, 2011, at 9:32 a.m.)

(Counsel for the defendants are present. The government prosecutors are present. The defendants are not present.)

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THE COURT: Good morning. The Court will be sentencing today Dylan Boyd and Zak Boyd.

Mr. Zeszotarski, are you ready with respect to your client?

MR. ZESZOTARSKI: Yes, your Honor.

THE COURT: All right. And there's been a request that there be some joint sentencing. What says Dylan Boyd as to a joint hearing in any respect?

MR. ZESZOTARSKI: That would be fine with us, your Honor.

THE COURT: All right. And you're read to go forward on behalf of your client, Mr. Hill?

MR. HILL: Yes, your Honor.

THE COURT: All right. Well, I didn't want to conduct an entirely joint sentencing hearing, but I do recognize, where there are shared objections, that efficiencies would accrue and benefits in advocacy, as well, to going forward together. So, it would be with respect to those objections that I think it would be appropriate.

Mr. Bowler, what says the government as to that?

MR. BOWLER: Your Honor, we're happy to proceed however the Court thinks best.

THE COURT: Okay. Well, let's get both defendants in and do the joint objections, first.

(The defendants entered the courtroom.)

As the Court indicated, I'll go forward on the joint objections and hear those first, and then I will separate the defendants and go forward more particularly with respect to each of you to determine a sentence that's sufficient, but not greater than necessary, to comply with the purposes of sentencing.

Both Dylan Boyd and Zak Boyd come before the Court for sentencing on the crime of conspiring to provide material support to terrorists and aiding and abetting.

First, Mr. Hill, I'll ask you, have you had enough time to review the presentence report and discuss matters with your client to be ready today?

MR. HILL: Yes, your Honor.

THE COURT: And Zak Boyd, I'll ask you the same thing. It's a lengthy report that the probation office has prepared about you. Have you read it?

DEFENDANT ZAKARIYA BOYD: Yes, your Honor.

THE COURT: Have you had enough time to prepare, in consultation with Mr. Hill, to be ready for sentencing?

DEFENDANT ZAKARIYA BOYD: Yes, your Honor.

THE COURT: Very good. Thank you. You can be seated.

You can anticipate the questions I'll be asking you, Mr. Zeszotarski. Likewise, have you had enough time to review the report concerning your client?

MR. ZESZOTARSKI: Yes, your Honor.

THE COURT: And Dylan Boyd, same for you. It's a lengthy report in your case, as well. Have you read it?

DEFENDANT DYLAN BOYD: I have, your Honor.

THE COURT: And have you had enough time to talk with Mr. Zeszotarski to be ready for sentencing today?

DEFENDANT DYLAN BOYD: I have, your Honor.

THE COURT: Okay. You can be seated, too.

There are objections that come before the Court. I would note that the advice of the guidelines is determined, in essence, by the statutory maximum that the crime carries with it. The Court cannot sentence either defendant to more than 15 years in prison. Therefore, the probation office reports to the Court that the advice of the guidelines is 15 years or 180 months.

The offense level that the probation office has determined in each case is the same. It's a very high level, a 43. While neither of you has any scoreable criminal history, you both find yourself in the highest criminal history category by virtue of the terrorist enhancement; that is a Level VI.

Were it not for the statutory maximum, the probation office reminds the Court that the advice of the guidelines would be a life sentence.

Now, there are joint objections, and I think that's the place to start. Though I presume that you still want to be heard on these objections, and that's ordering this hearing today, I would note in both of your cases the government's filed a certain motion. And to the extent that that comes up in this context, is there any issue as to hearing it on the public record in light of the circumstances here today?

MR. HILL: No, your Honor.

MR. ZESZOTARSKI: (Shaking head in the negative.)

THE COURT: Okay.

Mr. Hill, are there any objections that the defendant does not want to be heard on today?

MR. HILL: Your Honor, I know Mr. Zeszotarski has one objection. We are going to remove all of our objections due to the 15-year statutory maximum. I would like to be heard, though, on number four, briefly, on one sentence.

The next-to-the-last sentence in this paragraph it states, "The defendant was also armed at the time of his arrest and had to be forcibly restrained."

I don't believe they're talking about Zak in that instance. In the same report, in paragraph number 30 it says, "Zak was arrested without incident."

So, we would like to note for the Court we are removing that objection, but Zak wasn't armed at the time of his arrest and didn't have to be forcibly restrained.

THE COURT: Is there any dispute?

MR. BOWLER: I believe Mr. Hill is correct, your Honor.

THE COURT: Okay. So noted.

All right. So, otherwise, Zak Boyd does not want to have any objection proceeded on now?

MR. HILL: That's correct, your Honor.

THE COURT: Well, all right. Let me turn to you, Mr. Zeszotarski.

MR. ZESZOTARSKI: Your Honor, I do not need to be heard on any of the other objections, with one exception, and it doesn't affect the guidelines. It's a factual issue.

Your Honor, in the revised presentence report, I'm looking at paragraph 20 on page 8, and paragraph 31 on page 11. And the issue, your Honor, is the first sentence in paragraph 20, where it includes Dylan Boyd as among those who, quote, "started to discuss waging violent jihad domestically"; and, likewise, in paragraph 31, your Honor, the third sentence, stating, "The evidence suggests that Dylan Boyd conspired upon U.S. military personnel by targeting Quantico."

And I talked some with Mr. Bowler about this yesterday. Your Honor, we object to Dylan Boyd being included among the group of persons who this report says did that, for the simple reason that he didn't.

And, your Honor, I know your Honor is familiar with the evidence in the case. I pointed out in my memo, your Honor, a tape where Daniel Boyd, Dylan's father, specifically mentions the fact that Dylan is not part of the Quantico issue.

And I bring that up, your Honor, only because, as you know, whatever your Honor sentences Dylan to today, when he goes to the Bureau of Prisons, this is what they are going to use to classify him. And I have a concern that if -- while this issue does not affect the guidelines, and, certainly, can be explained through argument before the Court, but if it remains in the report, all the Bureau of Prisons is going to know -- at least it's my understanding -- is what is in here. And I have a concern that if they read that, Dylan is going to be treated differently than if they had a fuller picture of all the facts of the case.

THE COURT: And, Mr. Hill, might you be concerned with respect to the recitation concerning your client's arrest behavior similarly?

MR. HILL: Yes, your Honor.

THE COURT: All right. In these instances I've heard from the government with respect to one objection. What about the one raised by Dylan?

MR. BOWLER: Your Honor, we agree with the defense as to paragraph 31. We don't believe there's evidence to support a conclusion that Dylan joined in a conspiracy to wage an attack on Quantico.

THE COURT: Well, that coincides with the Court's determination, as well, in this case. So, in both instances the presentence report will be amended to remove those objected to portions, Mr. Wasco. Does the probation office want to be heard further on that.

PROBATION OFFICER WASCO: No, your Honor.

THE COURT: So that would be an amended report in both cases.

PROBATION OFFICER WASCO: Yes, your Honor.

THE COURT: Okay.

Now, obviously, the Court is familiar with your background and your history. I presided over the lengthy trial and heard from both defendants in the case, as well as your father. I've reviewed the information in the presentence reports and the letters that have been sent in, and, in Dylan

Boyd's case, the psychological report.

At this point I'm going to excuse Dylan Boyd and proceed with the sentencing of Zak Boyd.

(Dylan Boyd withdrew from the courtroom.)

Mr. Boyd was charged with four crimes and pleaded guilty to the crime charged in Count 1, the conspiracy count, conspiring to provide material support to terrorists. And the government stands ready today to dismiss those three charges.

I've reviewed the plea agreement, which also reflects an agreement and understanding of the government that the level of influence exerted on this defendant by his father in relation to the charged conduct was remarkable and needs to be calculated into the ultimate sentence.

The defendant has provided the Court with a lengthy memorandum, which I have read, as well as these letters to which reference was made; the letter of a teacher and friend, neighbors, a guidance counselor, the defendant's brother, sister, and his mother.

I'm familiar with the offense conduct, as I said. By virtue also of presiding over a five-week trial, I have the information concerning the defendant's background and history, his education, his financial circumstances, his health, his employment history. And I've reviewed all of this.

The advice of the guidelines is in this case a sentence of 180 months. There's no dispute as to that.

I'll turn my attention to you, Mr. Bowler, with respect to the motion that the government's made.

MR. BOWLER: Your Honor, to begin with, the government stands by the stipulation it put in the plea agreement that the influence of the father was remarkable and needs to be calculated in. We did calculate that in when designing the plea agreement in this case.

Would the Court wish me to make a single statement concerning sentencing as a whole for the defendant?

THE COURT: I think so.

MR. BOWLER: Thank you.

The government is very mindful that the Court has seen the evidence in the course of the trial and witnessed the defendant testify, and we will try to be as brief as possible.

We feel it incumbent on us to make some things a matter of record, some comments.

We'd like to compliment the probation department, Mr. Wasco, for immersing himself in what was a difficult and complex fact pattern. He did a great job on that.

It's a difficult case at the sentencing phase. We believe and we would concede to the Court, because of the juxtaposition of what was really a sort of -- this concept of violent jihad which, the evidence showed, encompasses endorsement of slaughtering everyone who isn't of like mind. As truly evil things do, it tends to evolve over time to include not only Christians, Jews and any other religion, but also Muslims who don't endorse that particular brand of viciousness. And the Court, I think, is confronted with that was the heart of the case. And also the tragic circumstances of these two sons as to how they became involved.

The government believes, speaking to the facts, that there is an obligation which we must, as a society, impose upon every human being to reject that sort of viciousness. And if we fail to do our duty in rejecting it and suppressing it and punishing it, we risk society degenerating into barbarism.

That's behind the government's efforts to prosecute these two defendants. In doing so, though, we must pay attention to the individual circumstances of this defendant.

Zak entered into a guilty plea which included complete cooperation with the government relatively early on. He submitted himself to repeated interviews. My best recollection is approximately 11. I was party to most of them. They went on for hours.

His demeanor, his participation throughout that process was exemplary. He was forthcoming, he was honest, he didn't just -- we pressed on him that we didn't want to hear from him just what he thought we might want to hear, but just to tell us the truth.

And we think he struggled to do that as best he could and was effective in doing so.

He also pled in much earlier than his brother. And, therefore, was of more use in developing the evidence of the case.

We think he was instrumental in eventually pushing the brother over the edge and bringing him out of the cold, to the brothers benefit and also the government's.

We think his ultimate testimony at trial -- I think we all have to bear in mind that when those two brothers took the stand in that way, they knew it would lead to dramatic ostra -- being ostracized by the Muslim community, which was all they had known growing up, and particularly in personal relationships. And it was crossing a bridge they could never uncross, and it was something they would have to live with for the rest of their lives. And we must applaud their courage in doing so.

The government is mindful that, unfortunately, this is not likely to be the last time the court system will confront the effects of radical Islam. And we think it's important to bear in mind that we must, to the extent that justice and in the concerns of general deterrence and all the factors laid out in Title 18 permit, we must acknowledge that and encourage it with the best treatment we can afford them. And that would certainly extend to Zakariya Boyd.

We think this is also a difficult case because the underlying root is not just this distilled evil that was developed in the course of the trial specifically, perhaps, encapsulated most by Anwar al-Awlaki's teachings, but also the fact that the picture emerges that Zakariya Boyd, but for being inculcated with this vicious ideology, has no -- was an admirable individual, pressed hard in his studies, wanted to have a normal life, wants to contribute in the future, has good intelligence, was kind in small ways to most of those that he had ever been around.

And but for the father's influence -- and the father didn't invent this form of evil -- and this whole ideology that was shoved down his throat, he would never be before this Court.

Given all those circumstances, our recommendation would be that the Court calculate from the 15-year maximum and down. We think the defendant has earned that, and that his particular circumstances are fairly unique, and call out for more leniency than we otherwise would have recommended.

We acknowledge, we believe had he gone to trial against us, he'd be standing in front of the Court convicted as charged. However, he's not. He seems to have taken that step to confront the evil, to acknowledge his role in it, and to do his best to stop it in the form of his cooperation, his testimony.

We'd recommend in this -- we also have to acknowledge that his cooperation is not complete. The contractual agreement set up by that plea agreement, which he's done well living up to to date, is ongoing. And we bear that in mind. We expect to call him in the matter of United States versus Subasic sometime anticipated to be in the spring or early summer.

But balancing all those factors, our recommendation to the Court is that the Court subtract four years from the 15-year maximum. That still leaves a significant period of incarceration. We think it's the best balance we can arrive at between balancing the horror of what was involved and the personal circumstances of this defendant, who we don't think would ever be before the Court if that ideology hadn't been shoved down his throat.

THE COURT: Okay. Thank you.

MR. HILL: Thank you, Mr. Bowler. You abided by the plea agreement and we appreciate you giving us a plea, and I agree a hundred percent with everything you said.

Your Honor, my client came into this Court and he pled guilty. He's accepted responsibility. There was no trial. We saved a lot of expense to the government and a six-week trial.

His plea obviously led to his brother pleading guilty. Joe and I and Dylan and Zak met many times, probably three or four times in the Harnett County Jail, which the marshals let us do jointly, and talked about things. And his brother entered a plea several months later.

It's tough to talk about your community and what you were doing wrong and what they believe you did, but it's really tough to talk about your brother and say your brother did wrong. And he did that. He got in front of them and he said my brother did wrong, and he did this, and gave specifics.

So, I give Zak a lot of credit for speaking up and being the first to plead.

Your Honor, he has no criminal record, obviously. That says a lot to me. He's been detained since July 27th, 2009. That's 29 months.

Your Honor, I don't think the general population, when a defendant gets arrested, they don't care; he should be in jail. And the local jail is the hardest time you can pull. There's no education. There's nowhere to work out. The only thing he can do is sit-ups and push-ups in his cell. He doesn't get any fresh air but for maybe an hour a day. Most of the time, if not a majority of the time, he was in 24-hour lockdown -- 23-hour lockdown. He got an hour outside his cell.

I would say that if he hadn't pulled 29 months, I would say he's pulled five years already, just because of the harsh conditions in the local jails. I'm not saying anything against the Marshals Service, or anything like that, because they've got to have housing. But local time is one of worse possible time you can pull. Once he gets in the system, he can be free to play basketball and further his studies, or whatever. And I think it's important that the Court realize that.

Your Honor, he was arrested at age 20, and I can't imagine turning 21 and 22 while in prison. When he celebrated his past two birthdays, most people are out doing whatever they want. He was in prison celebrating his birthday.

As I said earlier, your Honor, at the time of his arrest he fully cooperated. He wasn't armed. He didn't give the marshals any problems. He actually gave a voluntary statement. And he talked about jihad. He gave the definition of jihad to the agents. And his attorney wasn't present also at this point, and his parents weren't present. He was age 20 at the time of his arrest.

Your Honor, it's very important, his age in this. The investigation began in 2005. He was 16 years olds at the time. And he was arrested in 2009, four or five years later. And he was a teenager, 16, 17, 18, 19. He was a teenager during this whole time period, except for the last six months, when he turned 20. I think that's significant, and I think the Court ought to take that into consideration.

Your Honor, he's an Eagle Scout. I got life and I had earned more merit badges for being an Eagle, but I wouldn't write a paper on citizenship in the community because I thought that was not fashionable. And that's one of my biggest mistakes in life, that I was not an Eagle Scout.

But he was an Eagle Scout. He worked hard at that. And the character letters point out that he helped Noah, his brother, become an Eagle Scout. And he was also a leader in the troop, and he helped others to do that. And that shows he is a leader among youth, even though he was a youth himself.

He was a normal high-schooler, your Honor. He had a 4.03 average. He graduated fortieth out of 358 students. He earned letters in football and basketball. He was just a normal kid outside the home front with his dad, which I'll explain more in a minute.

Zak always worked. That was impressive to me. Usually I'm in front of your Honor in a drug case, and I can't show my client's worked for the last seven years, and I would hope you'd skip it in the record and I would hope you don't read it. But, in this case, he worked at CVS while in high school, he worked at Cracker Barrel while in high school. He worked in Ruby Tuesdays while he was in college. He has put forth knowledge with his dad's sheetrock business, and he can get out and he can work in the construction business.

He's going to be a convicted felon at age 22. He can't get rid of that. He can't expunge it. It isn't going away.

He'll never be able to work for IBM, AT&T, any type of job like that, because he's a convicted felon.

He might be working in a family business. He has the skills and the know-how to do that. So I have no doubt that once he gets out, he's going to be a productive member of society.

Your Honor, he was a normal teenager except for, once again, his dad's influence. He partied and drank alcohol, he experimented with drugs. He's never had any drug treatment. And we had a long discussion about this. I don't think he's got a problem, but I think he may be able to benefit from some type of drug treatment, because he did do that at a young age when he was a teenager.

Luke's death -- I didn't realize, really, until about a year ago, after we'd been together for a year-and-a-half -- how close he and Luke were. His brother died in an automobile accident in 2007. He tells me that he can only remember five days when they were apart. One of them went to camp, and for the rest of his life they shared bunk-beds. They stayed up late at night talking. And when Luke died, he couldn't show emotion, he couldn't break down, because his dad wouldn't allow that.

And he was the one there to care for the others, I'd point out. He was there for Noah, he was there for his sister, and he was the strong one. And he was the closest one. And it took a terrific impact on him.

At the same time, his dad's preaching violent jihad. He's very emotional. Things are going through his mind. He's very unstable. And I think that's one reason why he's sitting in front of you today, Luke's death and how emotionally that affected him.

Has dad's influence, your Honor -- and I want to read it to you one more time -- and the government's input it and you read it -- "The government recognizes that the level of influence exerted on Zak by his dad was remarkable and needs to be calculated into the ultimate sentence."

I've never had that in a plea agreement, and I appreciate the government doing that, because that's -- that's why we're here. If not for dad, he wouldn't be here.

When I went through all these hours of tapes, it was important to me to note that Zak never talked about jihad alone. Maybe once or twice among the many conversations with people. But dad was always present. Dad was the one talking. And when he had a conversation about jihad, it was with his father.

Second, it's very important to note that most of the time when his dad was ranting and raving, Zak was listening. Zak wasn't saying anything to him. So, I don't know if Zak was going along with the program at that time or if he was just seeing his dad ranting and raving. He couldn't leave.

There was nowhere to go.

Briefly, at Quantico, the whole family rode through Quantico one time when they were growing up. There's no evidence that I see that he did anything about Quantico. He, once again, listened to his dad's rantings and ravings, and he told that to Mr. Bowler.

The bookstore in Cary, there's some talk about that. It's interesting that dad requested that meeting with the FBI. They met with him, and Zak stayed in the car and took pictures. And, once again, that was at his dad's direction. He had to go. Dad said you're going, and he had to go.

The Jordan trip, he went one time overseas. There's no evidence in the presentence report that shows he did anything to promote jihad over there. He was in the partying mode. He was getting ready to go to college. He tells me he snuck out a lot and went to an Internet cafe and e-mailed his girlfriend, set up his classes at Pembroke, got his living arrangements. So, he wanted to come back. He wanted to come back and see his girlfriend and go to college.

I think one reason Zak left college, and probably the main reason, is his dad's influence. He was struggling with his dad and his religion, and he was partying. And dad, sort of like Dylan, you'll hear from Joe, gave him an ultimatum that you'll either straighten up and follow a religion or you're not doing right. So, he came home because of his dad's influence.

If he didn't believe in his dad's version of religion -- he didn't have anybody to turn to, as outlined in the presentence report. Both grandparents didn't approve of the marriage. They weren't around. He didn't have an aunt and uncle he could run to in Raleigh or Greenville or New Bern. Everybody was up north.

When I was growing up, if I had a problem with my mother and father, I could go to my uncle or my aunt, and I could sit and talk and say, "Is dad crazy? Is dad doing this? Why did he spank me?" And he spanked me because I needed it. I knew that. But I had somebody to talk to. He needed somebody to talk to. And he didn't have anybody to talk to. The only person he had to talk to was his dad, and his dad was so strict on him.

Your Honor, I did want to read an excerpt that I think is very important and I sent it to Mr. Bowler and to your Honor. This was from Carol Hewitt. And I wasn't present in 2007, none of us were, but she was there and show knows exactly what Zak was going through. I think this is very important, and that's why I want to read it to you:

"At the end of his first year in high school Zak had made some mistakes, and they affected his grades and scholarship. He came home from school" -- I'm sorry, he was at Pembroke -- "and Jordan," which is Ms. Hewitt's daughter, "went to Spain to study the language for several weeks. It was during this time that Zak's family found out about his grades and also that he had been seeing Jordan. They were beyond upset, there was a huge struggle at the home, and Zak's mother threatened she was calling his father. Zak was very afraid of his father's anger. He had stated several times his father was very physical with him and had beaten him up previously. Zak packed a few things and left the house in pajamas and no shoes. He walked several miles through the woods to get to his friend Zack Hodges mother's place of work. She later told me he begged her to take him to another state and hide him from his father. She did not think that the situation was as serious as it was and later said she wished she had taken him away. But she didn't. She dropped him off at my house.

"I arrived home from work to find Zak on the couch talking to my husband. He was very nervous and told us of the fight that ensued earlier. He asked if he could stay with us, and we said yes. I told him that he would need at some point to discuss the situation with his family. As we spoke, Zak jumped up off the couch and said that was my father that just drove by and asked us not to tell him he was there. I said you need to talk with him and not run away. Zak ran out the back door. His father and sister pulled into the driveway. Daniel got out and came to the front door and asked in Zak was here. I said yes, he is around back. Before I could get out any words to explain, Daniel was coming from the back side of my house with Zak clutched in his hands. He was behind Zak and had his hands on Zak's arms steering him towards the car. Maryam opened the door and Daniel forced him in and slammed the door. I could see the fear in Zak's eyes. I will be forever sorry that I did not understand the seriousness of his plea and hide him somewhere.

"It was during this second meeting that Daniel and all the boys showed up at the door. I was very taken back by the appearance of Dylan, Zak and Noah. They had clothing on that looked ragged and tattered, and had no socks on with shoes that didn't look like they fit. They had always been well-dressed in the fashion of their youth. Zak and Daniel sat across from my husband and me. He began with the same mantra. He explained that Zak was not worth the time and effort. That he had given him chance after chance to live you up to his expectations, and time after time he failed. Both sill Dylan and Zak made no eye contact with me. They sat dead still and expressionless. Both had wanted their father's approval so badly, and did not want to be ostracized from their family for not following their father to the letter. They did everything they could to please him. He seemed to be in total control over them. I was so worried about the boys at this point. They were shells of their previous selves."

And, your Honor, I like I say, that came from somebody that was there, and that, to me, speaks volumes.

He has family support, his mom and Maryam. And will you stand up?

They have been here throughout. They've talked to me a lot. The Hewitts are here, and Jordan. Carol Hewitt is the individual that wrote the letter I just read.

We appreciate you all being here.

THE COURT: Okay.

MR. HILL: We've talked about the character letters, and I read them, and I about shed a tear in a couple of them.

Excuse me for a second, your Honor.

(Pause.)

I've known Zak two-and-a-half years, and I've gotten to like him. I went to law school and they told me to never get emotionally involved in a case. And, unfortunately, I have in this case. I've been to many jails with him. We've sat down and talked.

My son, Garrett, I brought today. He's heard me talk about Zak so much, he said he wasn't going to miss this.

He's just been a wonderful client. Done everything I asked or expected of him.

Your Honor, Hussein -- I may not be pronouncing that correctly -- Mohammad went to trial. He rejected the government's plea. And he got 15 years.

Zak has pled guilty and has accepted responsibility, and he has done everything the government asked.

Your Honor, I'd be asking for a 60-months sentence. I think he'll be in custody another year-and-a-half. He's already spent two-and-a-half years in custody. And, your Honor, I think five years, four years for substantial assistance and four or five years for the dad's influence, because he wouldn't be here except for his dad. I believe that a 60-month sentence is appropriate.

And my client would like to be heard at the appropriate time.

THE COURT: All right.

DEFENDANT ZAKARIYA BOYD: Thank you for giving me this time to express my opinions and hopefully an opportunity that I'll be able to convey my sincere apologies for events that were caused by my past actions. Excuse me if I'm a little emotional.

First, I must apologize to the Court for the time, resources and energy that have been expended as a consequence of my words and actions or as a result of the lack thereof.

I'm also grateful to the Court and to those sworn under it for the resources that have been extended to me and for the ample open-mindedness that has been given towards finding justice and encompassing a true understanding of my situation.

I regret that at a time when I should be helping to bolster and promote our justice system, I find I'm only helping to detract from it. And for this I'm truly sorry.

Secondly, I wish to apologize to my family and the ones I love for the enormous and unneeded pain and suffering that I've placed upon their shoulders. If ever there were moments I could take back, it would be these. I'm sorry for every tear they will shed and for every moment of loneliness that you have felt as a consequence of my past actions.

I ask that you please forgive me and know that I love you more than even these words can describe. Though I can't make up for lost time and for past pains, I'm striving to learn all that I can from these lessons in order to better the time I hope we one day will share. That is a day I cherish and will look forward to with great anticipation.

The most important apology I offer today, though, I offer to my fellow countrymen. I apologize to you because I've failed in upholding the mantle of truth and justice which I had pledged to faithfully to secure. I allowed the opinion of others and of outside influences, as well as my own lack of courage, to blind me from what hearts of hearts I knew to be true.

Not only through my actions but also through my inactions and my silent condoning of the incorrect words and behaviors around me did I fail in upholding this pledge.

I am forever regretful of my cowardice by not taking an firmer stand against ideologies and opinions which my deeper self knew to be skewed or entirely incorrect.

No amount of words will ever be able to equal my remorse towards this responsibility I allowed to falter. So I ask that you not look towards my words but towards my future actions. It is here that I hope to prove my determination for a complete embetterment and a clear diverting from past mistakes.

I have found that there is no greater motivator than shameful regret in cementing my drive towards future unyielding honor and a towards a firmness of conviction that I hope will one day allow me to reclaim the mantle of truth and justice that I this day stand for.

I make all these apologies because I hope them to be a first step towards many more positive improvements that I pray in time will give me ability to once more join my fellow man in becoming a shining example of honor and integrity as it was an integral part and positive contributor to society and to the world at large.

A pious man once said, "Stand for the truth even when your lip trembles." Standing here today, it is my heart which trembles.

I won't face you here and say I look forward to the prospect of more time away from my family, friends and the ones I love. What I can and will say is that I look forward to being able to right the wrongs of my past actions. I understand that all actions in life have consequences. And so, with this understanding, I won't shrug the results and responsibilities of my actions.

It the is through acceptance and shouldering the responsibilities of our actions that we become greater human beings. I believe that when taken with the correct mindset, every mistake made in life is really just an opportunity to learn and grow wiser through our deeds. This is the belief that I hope to employ and nurture as I continue moving forward from today towards a complete embetterment and eventual rejoining of society.

Lastly, I finally must thank my attorney and gained confidante, Mr. Hill. I thank you not only for your fair representation of me during this case, but more so for your helping hand for giving me a foundation of reason which I could stand upon as (inaudible) mentalities, opinions and new thought processes.

I would also like to thank Mr. Bowler and his colleagues for the guidance you each provided during our discussions, which helped me to gain new perspectives and deeper understandings during my time of introspection.

I thank you all for your patience, and I hope to implement it as I positively move forward in life.

And I thank you for letting me have my turn to speak, your Honor.

THE COURT: Thank you.

Okay, I'm ready to sentence you.

I would note for the record that under the guidelines you're not eligible for probation, and by statute, one to five years.

I would note also for the record that your behavior upon your release from prison cannot be supervised for more than three years.

I would also note the fine could be as much as a quarter-of-a-million dollars, though the guidelines suggest to the Court a fine that begins at 25,000 and goes forward up to the maximum.

Restitution is not an issue.

There's a single felony offense, and $100 is due and owing.

I've considered the advice of the guidelines in this case and the factors set forth in 18 United States Code, Section 3553. Among those factors is the need to consider, of course, as the guidelines do, the history and characteristics of the defendant and the circumstances and nature of the offense, and also the need for the Court's sentence to promote respect for the law, to discourage this type of conduct, to protect the public, and to provide any needed treatment or care in the most effective manner possible.

The depravity of your father is etched in the record and presents itself in the material the Court's reviewed in this sentencing and also the one that I'll undertake in a moment of your older brother. The oppression that you endured during your upbringing really left you quite scarred, it's evident, and it would seem that there was some enabling in your household that took from you any adult to which you could turn for reasoned guidance.

The sentence should reflect that, and it should also reflect that, as you recognize, you knew in your heart of hearts this conduct was not correct. It was not the right way to think. And there's a lot in your life that suggests that you're a very thoughtful person, and, as Mr. Bowler said, many acts of small kindness you've engaged in.

It is a very complicated sentencing, as this crime is horrific, and the sentence must recognize that, as well, very importantly, to discourage this type of conduct.

All things considered, it's the Court's determination, pursuant to the Sentencing Reform Act of 1984, that you should be sentenced to a term of incarceration of 108 months, a sentence of nine years. That's a sentence that's sufficient, but not greater than necessary. It's a sentence that recognizes your assistance to the government. And it's a sentence that I'm confident accomplishes the purposes of sentencing with what is in front of me today.

Whether I see you again or not is not guaranteed, but, certainly, as the government suggests, it's likely that your cooperation will continue. And if that's the case and you come back before me, I'm value it again and make any changes warranted.

I am going to recommend a mental health assessment when you come within the province of the Bureau of Prisons. And I think, as you recognize, any mental health treatment would be very helpful to you.

You're a very smart person, and I think you have a lot of capabilities. And I think that properly applied these initiatives that you've shown -- you're hard-working, you want to do better -- I think that you will.

There are some education programs in the Bureau of Prisons, and I'll recommend you for those, as well.

There's a recognition that there is some addictive issues, and I will recommend you for the most intensive treatment program that the Bureau of Prisons can make available for someone.

I anticipate there's a request for Butner, Mr. Hill. Is that correct or not?

MR. HILL: Your Honor, Joe and I talked about it. We think that Bennettsville, South Carolina, might be a better fit. And, along those lines, if I may continue, I believe the government -- if I was the government, I would want Zak and Dylan separated until the Subasic trial. But I would think that if the Court would not have a prohibition with having these two defendants being together at some point, so when the mom and everybody goes to visit them, they could visit them at the same time.

THE COURT: So, is your request for FCI Bennettsville? Is that request?

MR. HILL: Yes, your Honor.

THE COURT: I'll recommend FCI Bennettsville. As far as your contacts with your brother, I really don't have any influence on that. It's up to the government and the Bureau of Prisons.

Now, when you get out of prison, you'll be supervised for three years. And if you break any law, federal, state or local, possess a weapon or drugs illegally, you'll be in violation of the Court's judgment, and that could cause you to go back to prison.

There are some other standard conditions and some special ones.

You will submit to warrantless searches and you will cooperate in the collection of DNA.

I also will require you to provide any financial information to the probation office, upon request, and to keep the officer advised as to your efforts to get a job and keep a job going forward.

You'll submit a urinalysis test within 15 days of getting out of prison and at least two tests thereafter.

There's a $100 special assessment that's due immediately.

Restitution is not an issue.

I'm going to impose a fine in this case of $3,000. I don't believe you have the ability to pay a fine within the guideline range. But you should be able to pay that fine, and that is ordered.

Pursuant to the plea agreement, now Counts 2, 4 and 8 are dismissed.

The fine must be paid immediately.

I believe this represents the entirety of what the Court thinks is an appropriate judgment in this case. But before I make it final, Mr. Hill, are there any further requests on the part of your client?

MR. HILL: No, your Honor.

THE COURT: Mr. Bowler, for the government?

MS. BOWLER: No. Thank you, your Honor.

THE COURT: Thank you. And Mr. Wasco?

PROBATION OFFICER WASCO: No, your Honor.

THE COURT: All right.

Now, Mr. Boyd, I need to explain to you how you can appeal, as I must at any sentencing. If you believe there's some fundamental defect with your conviction or with the sentence, you have the right to appeal. But you did enter into a plea agreement that has a number of waivers of your appellate rights. You've been told before, and I tell you now, they're generally enforceable.

Obviously, the plea agreement has benefits to you, but these waivers are a part of this record of this case. If you believe for some reason they can't be held against you, you can present your theory to the Fourth Circuit.

Now, with very few exceptions, any notice of appeal has to be filed within 14 days of judgment going on the docket. If you cannot afford the cost of an appeal, you can apply for permission to appeal for free. And, if you request, the Clerk will prepare and file the appeal paperwork for you.

Do you have any questions about your appeal rights?

DEFENDANT ZAKARIYA BOYD: No, your Honor.

THE COURT: All right. And your good behavior in prison will get you out a little bit sooner, as you'll be given credit close to two months a year. So, there are some things that you can do going forward to get out sooner and to also better yourself while in prison.

And I might not entirely agree with what your employment possibilities might be. I think -- I think that if you properly apply yourself, there's a lot of opportunity out there for you.

I do think that you're going to have to make some very difficult decisions on who you associate with, and, quite clearly, that embraces members of your family.

So, there is some difficulty in going forward, but I think that you seem motivated so to do.

I'm hopeful for you, but I also recognize that it's a very lengthy sentence, as it must be, given the nature of the offense at issue here.

So, I'll put you back in the custody of the marshal and now move to the second case today.

(Defendant Zakariya Boyd withdrew from the courtroom.)

(Defendant Dylan Boyd entered the courtroom.)

I've recognized in this case that the defendant faces advice of the guidelines of 180 months, where he cannot be sentenced to more than 15 years. As in the prior case, he's not eligible under the guideline scheme for probation, though by statute, one to five years.

His behavior cannot be supervised for more than three years when you get out of prison, Mr. Boyd, and also the fine advice I've received through the guidelines is that you should pay a fine of between 25,000 to 250,000, but, by statute, the maximum is, in fact, $250,000.

Restitution is not an issue, and there's a $100 special assessment.

I have reviewed the letters, as I made mention of, and also in this case I have benefit of the psychological report prepared by Dr. Bellard, and I've read that carefully as well.

The defendant's thoughtful sentencing memorandum is a part of the record, as is the government's motion pursuant to 5K1.1 and 18 United States Code, Section 3553.

Mr. Bowler, I'll start again with you in this case.

MR. BOWLER: Your Honor, I would not want to spend the Court's time repeating everything I said previously. We would ask to incorporate the general comments in this proceeding as well for the record.

THE COURT: Is there any objection, Mr. Zeszotarski?

MR. ZESZOTARSKI: No objection, your Honor.

THE COURT: Okay.

MR. BOWLER: In encapsulated form for Dylan's benefit, this is an agonizing case in approaching sentencing because of what we've talked about, this juxtaposition of distilled evil, which is radical Islam, and the circumstances of these boys having it shoved down their throats -- the term "brain-washing" comes to mind -- from an early age.

We have to, as a society, as we've indicated, expect and demand, though, that individuals that somewhere in their core they reject this kind of evil, that their consciences will kick in and that they reject it and resist it and separate themselves from it.

Getting to the point on Dylan, we think it's objectively true that he was -- he had reservations, that he was -- resisted his father. He was a bit older than Zak, and resisted him longer, and was in some ways emotionally just as vulnerable, and the threat of complete ostracism from the family which his father imposed on him is a horrific act and is certainly a factor the Court ought to consider in applying to these circumstances.

A sense of obligation towards the truth in reality also incorporates, we think, by the time this whole process completes, at the time of Dylan's arrest, he had, at least for that period of time, joined his father's effort. He was a jihadist at that point.

At the time he was arrested, they had to let the dog free on him because he wouldn't comply with orders. The dog had to finally bite him in the shoulder before they could get the gun on his waist away from him voluntarily.

And when he was interviewed by the FBI, including telling them to their face that their were *kafir* and they represented a *kafir* government, and he didn't owe it any loyalty.

He was later than Zak coming to the realization or the confrontation in making peace with what he had become involved in was evil. I think, honestly, a good portion of that was these internal reservations he had all along, and our own human nature to see the best in ourselves, to find excuses for ourselves, made it harder for him to let go and confront the reality of what he had done, what he knew, and what the nature of this group was that he had to some extent joined with.

Facts include his arranging for secret communications through the computer, which he knew were for use for the communications, and they were being secretive, he explained at times painfully at trial that part of that was his own computer security awareness.

But another part was that he didn't want the authorities to be capturing these communications which he was making possible.

We permitted him a plea of aiding and abetting. We don't regret that. We stand by our stipulation in the plea agreement that the father's influence was remarkable, extraordinary and evil unto itself and ought to be calculated in.

He did come to the guilty -- the point of entering a guilty plea later. He participated, in my recollection, in two intensive interviews. He was forthcoming in those.

It was clear that he had intellectually, by that time, confronted the evil that his father had been shoving down their throats; that he couldn't slap the label of religion on what is essentially vicious barbarism and somehow justify it as a proper theological stance.

He came to that, I think in an intellectual sense, more thoroughly than others, because he's exceedingly bright. He's very, very intelligent and articulate.

We think he helped us on the stand. To some extent, his testimony was a bit halting and qualified, and less so than his interviews were. But I think some of the explanation for that was the sheer nervousness of performing in front of a federal jury in a federal courtroom. And, as we've learned from that psychological report, he is subject to that nervousness.

So, we have multifactors, in summary, your Honor. I think he was less involved than Zak. He never goes to the shooting range because he wasn't trusted enough to go there. When they go to Jordan, he comes late to that trip. He's not -- he's basically treating it as a tourist trip. Found it interesting seeing the cultural things.

By the same token, he's living in the midst of this armory that the father had turned the house into. The Court remembers the weapon he brought in, I'm certain, to the courtroom. And it's clear you couldn't bring those weapons to the overseas battlefield by any means we're aware of. So that if they're going to be of any use at all to this violent jihadism, it was going to be here.

He did not endorse that. He, as a matter of weakness, I think, and this -- under this threat of exclusion, he finally joined up and got in line with what his father demanded of him. But, at the time of the arrest, that conversion appeared to the government to be pretty complete.

On balancing all those factors, our recommendation to the Court -- and we don't envy the Court's task in this and have respect for whatever result the Court comes up with -- but we would again count down from the 15-year maximum. We would bear in mind that we anticipate his cooperation continuing. We anticipate calling him in the matter of United States versus Subasic, so that he'll have an opportunity to lend further cooperation. We would subtract three years off that 15-year maximum at this point in time.

THE COURT: Okay. Mr. Zeszotarski?

MR. ZESZOTARSKI: Thank you, your Honor. I thank Mr. Bowler. Like Mr. Hill, I agree with everything Mr. Bowler said, and I don't have any problem with that at all.

Your Honor, in the time I've been doing this I've never been confronted with a more, for lack of a better term, difficult scenario than the facts of this case.

On the one hand, you have the facts of the offense and the subject matter of the offense, and all the things that go along with that. And, on the other hand, you have this young man, who is very much like his brother who was just before you. It's striking how similar they are in so many ways.

He is an intelligent, caring person. Your Honor, one of the things that I've really strived for and hope that I've gotten across to the Court in the materials we've submitted was Dylan as a person. He's somebody who is intelligent and caring and really thoughtful.

It's -- he's the kind of person who you saw in the letters, your Honor. For example, when their elderly grandfather moved in with the family, he's the one who lived with his grandfather and cared for him.

Your Honor, he's somebody who obviously had no prior record before being involved with this. Your Honor has the report -- and I'm not going to go into the matters in the report. I know your Honor has had a chance to look at it.

Dr. Bellard set out six areas in that report that he asked the Court to consider as relevant to the sentencing in this case. And, obviously, we'd ask the Court to consider those, as well.

Like Zak, Luke's death had a profound affect on Dylan, and the timing of that, in April of 2007, was really when all this madness really kind of took off. And the timing of that was terribly unfortunate and a terrible thing for Dylan and for the entire family.

Your Honor, I'm not going to spend much time talking about the influence of his father. It's been set out at length in the materials we've submitted to you. I do think one thing is very telling that Dylan stated to Dr. Bellard. And that is, on page 11 of the report, Dr. Bellard reports that Dylan stated, "We were more scared of him than God," him being his father.

And to me, your Honor, that really speaks to the issues in this case. It really speaks to what happened here.

Dylan, your Honor, came to accept responsibility for his involvement in this offense. He has assisted the government. He's willing to assist the government further to the extent they wish him to assist in any other trials that may occur. And that's not an issue at all.

Your Honor heard from Mr. Hill about the letter from Ms. Hewitt and that episode in 2007. And Ms. Hewitt also submitted a letter on behalf of Dylan, which echoed the juxtaposition of the kind of persons that Dylan and Zak were outside of their father's influence, and then the drastically different picture once -- when they showed up with their father that last time, and how they looked different, acted different. They were different people. And that, your Honor, is from somebody who was there and lived through it and can speak to it much better than me, obviously.

Your Honor, aside from what's set out in the materials we've submitted to you, I think it's important for your Honor to know Dylan is a client who -- we've been working two-and-a-half years together, and he's been a wonderful client. Never a cross word between the two of us in a situation where, quite literally, his life and the rest of his future was at risk. He's been very trusting. He's been very open. He's been extremely respectful.

Dr. Bellard talked about -- and Dr. Bellard's been doing evaluations for 20 years -- he told you that Dylan is probably the most polite and deferential evaluee he's ever seen in the work he's done.

Dylan, your Honor, is the kind of person who, when I come to see him, the first thing he asks about is my family and how my child's doing.

I know your Honor is taking all these facts into account. The one unique issue that Dylan has, as well, that's a little different from Zak is that Dylan has a young child that was born shortly after he was arrested in this case. And, your Honor, I know -- and I've submitted to the Court some materials about this -- I know how he feels about his son, how much he hopes for his son's future, how badly he wants to be there and be a father to his son. I think that it's terribly tragic that Dylan has learned in a very hard way about fatherhood and about what it takes to be a good father and maybe what it takes to be not a good father. And I'll leave it at that.

Your Honor, it's -- it's been a struggle for me to see Dylan struggle with that, because we have children the same age. So, I'd ask your Honor to consider all of that.

Like Mr. Hill, I'd ask you to consider a five-year sentence in Dylan's case. I'd submit to you that that's balancing all the factors, that that really weighs appropriately for Dylan and for the facts of this case.

And I know Dylan wants to speak, your Honor, and I'm happy to answer any questions you might have.

DEFENDANT DYLAN BOYD: Your Honor, I intended on using this paper to -- (inaudible).

THE COURT: I want to hear you, so would you pull the microphone a little closer and just slow down?

DEFENDANT DYLAN BOYD: Sorry. I intend on using this paper to prep myself so I don't miss anything due do nervousness.

THE COURT: Okay.

THE DEFENDANT: First, I'd like to apologize to the Court for having to address me in the shameful state I stand and for using your valuable time and resources to deal with other pertinent and criminal decided final issues and exercise more prudence and wisdom.

Second, I apologize to the surrounding communities for having misrepresented them by misrepresenting my own true characteristics of morality and ethics and for not being available to contribute to local society with a positive input.

Next, I apologize to my nation for failing to assist in preserving our national security and for failing to clearly manifest the patriotism I hold within my truest character.

Then I apologize to humanity for my lack of awareness of the gravity of those situations and ideologies that previously surrounded me and for my lack of courage in standing up to the evil I was aware of.

My family is aware of the corrections I have been implementing to better myself over the past two-and-a-half years. As you've explained, I have retained also in my struggle in accepting truth, faith, morality and introspective evaluation of life.

I have had these years to reflect upon and dissect the reality and perspective of goodness, order and decency within society. By being honest with myself, being human, I was hurt deeply and saddened by what I heard.

I have long come to the realization that I was clearly mistaken in many of my past perceptions and unjustified in my level of inaction was preventing (inaudible) unsafe and immoral situation that led to the case before you here and now.

Today it is my fervent belief that it is our collective human duty to give our utmost effort in promoting positive human progress, no matter what our background, life situation, hopes, or even our fears.

It is my intention to correct my past mistakes by using them and the unique lessons they are providing me to ensure that they are not repeated by myself, my family, my friends and peers, surrounding communities, nation and any of my fellow man.

I cannot look into a crystal ball and predict my future with any surety, but I can guarantee this Court and anyone who cares to grant their attention to my words today, that my future, for as long as I'm given the grace to live, will be one of productivity, positivity, amends and value to society.

The memories of my past errors often leave me breathless in contemplation and constantly full of remorse. But it is my ardent goal to use them for the redressing of wrongs and the betterment of myself and all those around me. And, God willing, before I pass on, I will truly feel the success in the making of amends for my situations mistakes.

That is all, your Honor. Thank you.

THE COURT: I've considered the advice of the guidelines specifically and generally in this case and the factors set forth in 18 United States Code, Section 3553. And the factors cause the Court to reflect on the heinousness of the crime at issue and your background and history which, in many respects, is a laudable one.

The Court also fashions a sentence that discourages or deters this type of conduct that promotes respect for the law and that protects the public and provides any needed treatment or care.

In your case I also reflect, in assessing all of these factors, on the imposition on you of an arranged marriage in an effort, as your father said, to temper your ways, and the feelings of failure that are described in the materials before the Court when that marriage wasn't able to be realized and the requirement, in essence, that you marry again.

The Court reflects, too, on the fact that there was testimony that you challenged your father. And you're one of the only ones around him that, in essence, tried to stand up to him. And also that you were not as involved as others in the crime.

You are a very smart person, and the record shows that and shows the potential that you have.

All things considered, reflecting on the influence of your father and all of the circumstances here, the Court determines that a sentence of 96 months is a sentence that's sufficient, but not greater than necessary, in your case. That's a sentence that accomplishes the purposes of sentencing.

Pursuant to the plea agreement, the other counts are now dismissed. You'll be supervised for three years, and if you break any law, federal, state or local, if you possess a weapon or drugs illegally, you'll be in violation of the

Court's judgment.

There are some other standard conditions and some special ones.

I'm going to recommend you for a mental health assessment when you come into the custody of the Bureau of Prisons and take advantage of any mental health treatment that can be made available to you. Also take advantage of any education that you can get. There will be some programs that you'll be able to submit to that might help you be more productive immediately when you get out.

Now, when you get out of prison, as I said, you'll be supervised for three years. You'll be subject to warrantless searches and you'll have to cooperate in the collection of DNA.

I'm going to impose in this case a fine of $3,000. There's a $100 special assessment. Restitution is not an issue.

In deference to the fact that you do have the child to support, I'm going to cut the fine to a thousand dollars.

Are there any requests, Mr. Zeszotarski or matters that I haven't taken up that you would wish to Court to consider?

MR. ZESZOTARSKI: Your Honor, we'd ask the Court to recommend FCI Bennettsville, South Carolina.

THE COURT: All right. Mr. Bowler, anything for the government?

MS. KOCHER: No, thank you, your Honor.

PROBATION OFFICER WASCO: No, your Honor.

THE COURT: All right.

Mr. Boyd, you can appeal if you believe there's something very wrong with your conviction or with your sentence, but you've got to move quickly. You've got 14 days from the date the judgment goes on the docket.

You've given up a lot of your appeal rights in the plea agreement that you've entered into knowingly, voluntarily. But if you believe for some reason the waivers can't be held against you, you can present your theory to the Court above.

With very few exceptions, any notice of appeal has to be filed, as I said, within 14 days. If you can't afford the cost of on appeal, you can apply for permission to appeal for free. And, if you request, the Clerk will prepare the appeal paperwork for you.

Do you have any questions about the appeal rights that you have?

DEFENDANT DYLAN BOYD: No, your Honor.

THE COURT: All right. You'll get credit for time served. And your continued good behavior while in the custody of the Bureau of Prisons can, as I'm sure Mr. Zeszotarski's told you, take close to two months a year off the sentence. So there are some things that you can do going forward.

We'll now stand in recess.

MR. BOWLER: Your Honor?

THE COURT: Yes?

MR. BOWLER: Is the Court open to valuing future cooperation by this defendant, as with Zak?

THE COURT: Certainly.

MR. BOWLER: Thank you.

THE COURT: While I recognize the government's not making any promises, it's more likely than not, from what I've heard here today, that you'll come back before the Court in the case of United States of America versus Anes Subasic. That trial date has not yet been set. In large part, it depends on transcript order process and the turnaround time of the court reporter with respect to that.

And I'm hopeful, Mr. Bowler, if the government's in a position to expedite that, that transcript process, and the facilitation and delivery of that to the defendant, that you would -- you would do that, I'm confident.

MR. BOWLER: Yes, your Honor.

THE COURT: All right.

MR. BOWLER: We've already produced all of the exhibits from the other trial and we've identified for him what we anticipate to add to that, as well.

THE COURT: And I reviewed the report made by the magistrate judge, and I see that, and I thank you for that.

So, depending on when that trial takes place --

hopefully, it will be this spring -- if you do testify and if the government values that accordingly, you'll come back before the Court and I'll be given the opportunity to reflect on the sentence.

So, thank you, Mr. Bowler, for prompting me to notice that, as well.

Mr. Zeszotarski, is there anything else that you want to take note of?

MR. ZESZOTARSKI: No, your Honor. Thank you.

THE COURT: Okay.

(Proceedings concluded at 10:45 a.m.)

* * *

CERTIFICATION

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter to the best of my skill and ability.

/s/ Harold M. Hagopian — January 6, 2012
Official Court Reporter — Date